

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARTHUR DEWAYNE TOWNSEND, JR.,
Plaintiff,
v.
MIKE RUIZ, et al.,
Defendants.

No. 2:20-cv-1179 KJM AC P

ORDER

Plaintiff, a state prisoner proceeding pro se and in forma pauperis with a civil rights action, has requested appointment of counsel. ECF No. 25. In support of the motion, plaintiff states in part that he is unable to afford counsel; that his incarceration will severely limit his ability to litigate the case; that the issues in this matter are complex; and that he has limited access to the prison law library. See ECF No. 25 at 1-2. As a result, he asks that the court appoint the firm Rosen, Bien, Galvan & Grunfeld, LLP as counsel to assist him with litigating this case. See id. at 2.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

1 To date, the record does not indicate that the Rosen Bien firm wishes to represent plaintiff
2 in this case or assist him in any capacity. Accordingly, the court will not order the firm to do so.

3 As for plaintiff's assertion that his inability to represent himself warrants the appointment
4 of counsel, the test for exceptional circumstances requires the court to evaluate the plaintiff's
5 likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in
6 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,
7 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances
8 common to most prisoners, such as lack of legal education and limited law library access, do not
9 establish exceptional circumstances that would warrant a request for voluntary assistance of
10 counsel.

11 To date, plaintiff has been able to file cogent original, first, and second amended
12 complaints. See ECF Nos. 1, 12, 16. Plaintiff also has a sophisticated enough understanding of
13 the details of his case to have filed the instant request to amend his complaint in order to change
14 the types and amounts of damages sought. See ECF No. 26. Given plaintiff's demonstrated
15 ability to participate in these proceedings pro se, the court does not find the exceptional
16 circumstances needed for appointment of counsel.

17 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for the appointment of
18 counsel (ECF No. 25), is DENIED.

19 DATED: November 12, 2021

20 
21 ALLISON CLAIRE
22 UNITED STATES MAGISTRATE JUDGE

23

24

25

26

27

28